

and all claims against the six individual named Defendants. After filing its Answer (Doc. No. 32), Defendant DHHS filed a Certification of Initial Attorney's Conference (Doc. No. 33) wherein Defendant informed the Court Plaintiff failed to take part as directed by this Court's Initial Standing Order. Standing Order Governing Civil Case Management Before the Honorable Frank D. Whitney, Misc. No. 3:07-MC-47 (Doc. No. 2). Defendant DHHS moved for Summary Judgment as to all remaining claims (Doc. No. 38) January 10, 2017.

Defendant DHHS contends it is entitled to summary judgment as to Plaintiff's remaining claims for disability discrimination, failure to provide reasonable accommodations, failure to provide proper training, and retaliation because Plaintiff admitted the following when she failed to respond to Defendant's Request for Admissions: (1) Plaintiff received reasonable accommodations, when requested; (2) Plaintiff was not denied any reasonable accommodation; (3) Plaintiff did not suffer injury from the alleged failure to train; (4) Plaintiff was not subjected to unnecessary and/or unreasonable discipline; and (5) Plaintiff did not suffer from unlawful retaliation. (Doc. No. 39).

Under Rule 36(a), parties may serve each other with written requests for admission of matters relating to a fact or the application of law to a fact. FED. R. CIV. P. R. 36(a). Rule 55(c) allows a party moving for summary judgment to use admissions to show that a material fact is not in dispute. FED. R. CIV. P. R. 55(c). Rule 36(a)(3) states that a matter is deemed admitted if a party fails to answer a request for admissions within thirty (30) days after being served. FED. R. CIV. P. R. 36(a)(3). Rule 36(b) states "[a] matter admitted under this rule is conclusively established unless the court, on motion, permits the admission to be withdrawn or amended." FED. R. CIV. P. R. 36(b). In its supporting memorandum (Doc. No. 39), Defendant DHHS informed the Court that its First Set of Requests for Admissions (Doc. No. 35) was served on Plaintiff October

31, 2016, and Plaintiff failed to respond.


“[O]nce a matter that is properly subject of an admission under Rule 36(b) has been admitted during discovery, the district court is not free to disregard that admission.” Adventis, Inc. v. Consol. Prop. Holdings, Inc., 124 Fed. App’x 169, 173 (4th Cir. 2005) (quoting Langer v. Monarch Life Ins. Co., 966 F.2d 786, 803 (3d Cir. 1992) (“Rule 36 admissions are conclusive for purposes of the litigation and are sufficient to support summary judgment.”)) In order to be relieved from said admission, a plaintiff must show that withdrawing the admission “would promote the presentation of the merits of the action” and would not prejudice the defendant. Fed. R. Civ. P. R. 36(b).

Without a response from Plaintiff, the Court accepts the following as conclusively established: Plaintiff received reasonable accommodations, when requested; Plaintiff was not denied any reasonable accommodation; Plaintiff did not suffer injury from the alleged failure to train; Plaintiff was not subjected to unnecessary and/or unreasonable discipline; and Plaintiff did not suffer from unlawful retaliation.

Accordingly, Defendant DHHS’ Motion For Summary Judgment (Doc. No. 38) is GRANTED. Defendant also filed a Motion to Extend the Mediation Deadline in this case. (Doc. No. 41). Due to this Court’s decision to grant Defendant DHHS’ Motion For Summary Judgment, the Motion for an Extension of Time is now MOOT (Doc. No. 41). The Clerk is respectfully DIRECTED to enter judgment in favor of Defendant DHHS and CLOSE THE CASE.

IT IS SO ORDERED.

Signed: February 10, 2017



Frank D. Whitney
Chief United States District Judge

